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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,348	01/03/2002	Kiyoshi Miyazawa	2309/0K167	7058

7590 02/17/2004

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EXAMINER
COLE, ELIZABETH M

ART UNIT	PAPER NUMBER
1771	

DATE MAILED: 02/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/038,348	MIYAZAWA ET AL.
	Examiner	Art Unit
	Elizabeth M Cole	1771

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 November 2003*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3,5-12 and 14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3, 5-12, 14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-3, 6-12, 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hammonds et al in view of JP 09158042. Hammonds et al discloses a nonwoven wiper comprising 0.5 to 50 weight percent of a plant extract (see page 3, lines 12-14), which has been extracted with a polyhydric alcohol such as 1,3,butylenes glycol, (see page 5, lines 31-33). The basis weight of the nonwoven can be 60-85 gsm, (see page 6, lines 24-31) and may comprise polymeric and cellulosic fibers. The size and area of the nonwoven meets the claimed limitations, (see page 8, line 32- page 9, line 6). Hammonds discloses that the oatmeal has a soothing, moisturizing effect on the skin. Hammonds et al does not disclose the particular claimed plant extracts. JP '042 teaches employing the particularly claimed plant extracts in nonwoven wipes and hygiene products. Therefore, it would have been obvious to have employed the plant extracts disclosed in JP '042 in the wipe of Hammonds et al. One of ordinary skill in the art would have been motivated to employ the plant extracts disclosed in JP '042 because both references teach that the plant extracts were known to be useful in hygiene products and to have a beneficial effect on skin health.

3. Claims 3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hammonds et al in view of JP '09158042 as set forth above and further in view of either of Corey et al or JP 226324. Hammonds et al does not disclose the particular claimed

plant extracts. Both Corey et al, (see col. 3, lines 32-34) and JP '324 teach employing the particularly claimed plant extracts in nonwoven wipes and hygiene products. Therefore, it would have been obvious to have employed the plant extracts disclosed in either of Corey et al or JP '324 in the wipe of Hammonds et al. One of ordinary skill in the art would have been motivated to employ the plant extracts disclosed in Corey or JP '324 because both references teach that the plant extracts were known to be useful in hygiene products and to have a beneficial effect on skin health.

4. Applicant's arguments filed 11/26/03 have been fully considered but they are not persuasive. Applicant argues that Hammonds, Corey, JP '324 and JP '042 do not teach that the plant extracts have the property of feces enzyme inactivation. First, it is noted that Hammonds, Corey and JP '324 are not cited for the particular extract having the property of feces enzyme inactivation. With regard to JP '042, since the reference discloses the same extract as is used in the instant invention, it would necessarily have the same properties. The fact that JP '042 does not disclose this property does not mean that it would not have been obvious to have employed, since JP '042 does teach that the extract may be incorporated into nonwovens and wipers in order to impart improved properties to them. "The fact that appellant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious." Ex parte Obiaya, 227 USPQ 58, 60 (Bd.Pat. App. & Inter. 1985).

5. With regard to the argument that it would not have been obvious to have substituted the different extracts such as those found in Corey for the oat extract of

Hammonds, it is not necessary that one be substituted for the other. It would have been obvious to either have substituted or to have employed the various extracts in combination with each other with the expectation that this would provide a variety of soothing and protective extracts which would benefit the user of the wet wipe.

6. Further with regard to JP '042 and JP '324, the references clearly teach applying the extract to a fibrous sheet so that it remains with the sheet and imparts benefits to the user of the sheet. Therefore, it would have to impregnated into the fibrous sheet. Further, since Hammonds teaches incorporating extracts into wet wipes, the combination of Hammonds and JP '042 or JP '324 would have motivated one of ordinary skill in the art to have incorporated the particular extracts of JP '042 or '324 into the wet wipe of Hammonds.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (571) 272-1475. The examiner may be reached between 6:30 AM and 6:00 PM Monday through Wednesday, and 6:30 AM and 2 PM on Thursday.

Mr. Terrel Morris, the examiner's supervisor, may be reached at (571) 272-1478.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The fax number for all official faxes is (703) 872-9306.

Elizabeth M. Cole
Primary Examiner
Art Unit 1771

e.m.c